have gone so far as to hold that misconduct during a preceding term is ground for removal. *State* v. *Welsh,* 109 Iowa 19; *State* v. *Burgeois,* 45 La. Ann. 1350; *Tibbs* v. *City of Atlanta,* 125 Ga. 18. To the contrary are *Thurston* v. *Clark,* 107 Cal. 285; *Shulz* v. *Patton,* 131 Mo. App. 628; *People* v. *Weygart,* 14 Hun. (N. Y.) 546; *State* v. *Watertown,* 9 Wis. 254. The first case directly in point with the instant case was that of *State* v. *Common Council of Jersey City,* 25 N. J. L. 536 wherein the opposite doctrine was announced. In that case a member of the council was expelled for receiving bribes and was re-elected to fill the unexpired term. The court in its opinion said "When the council expelled him they had exhausted their power. . . . When the law annexes a disqualification to an office, it does so in express terms. The council have no power to expel a member for acts committed prior to his election." To the same general effect see *Sped* v. *Detroit,* 98 Mich., 360; *Advisory Opinion of The Florida Supreme Court,* 31 Fla. 1, 18 L. R. A. 594. It is submitted that the view taken by the New Jersey court is technically correct for the reason that the contrary holding is in effect adding a qualification for the particular office in question which is not provided for by statute. While on principle there is no doubt this qualification should be added, yet the remedy lies with the legislature; judicial legislation is always to be deprecated.

SALES—CONVERSION—WHAT CONSTITUTES.—Plaintiff delivered furniture to X, a dealer, not to be put in his place of business, but to be placed in a storage warehouse; X wrongfully placed the furniture in his place of business and sold it to the defendant, an innocent purchaser. *Held,* defendant was guilty of conversion of property in reselling it after notice of plaintiff's rights. *Davis* v. *Miller's Auction Rooms Inc.,* 144 N. Y. S. 672.

It should be noted that the dealer was engaged solely in the retail furniture business and that no facts existed which would put defendant on inquiry or arouse his suspicion as to whether the dealer had title or not, yet he was held guilty of conversion. Although this is an extreme case from the standpoint of the innocent purchaser, nevertheless it is founded on well settled and sound principles of law and justice. *Saltus* v. *Everett,* 20 Wend. (N. Y.) 267, 32 Am. Dec. 541. Mere possession of chattels *by whatever means* acquired, if there be no other evidence or authority to sell, from the true owner, will not enable the possessor to give good title. *McNeil* v. *Tenth National Bank,* 46 N. Y. 325; *Cundy* v. *Lindsey,* 3 App. Cas. 459; *Wood* v. *Nicols,* 21 R. I. 537; *Leigh* v. *Mobile & Ohio Ry.* Co., 58 Ala. 165; *Baker* v. *Taylor,* 54 Minn. 71. The defendant contended that plaintiff gave possession of the furniture to a dealer, with apparent right to sell, and that therefore the dealer could give good title to an innocent purchaser. But *bare possession* of goods, by one even though he may happen to be a *dealer* in that class of goods, does not clothe him with power to dispose of the goods as though he were owner, or as having authority as agent to sell or pledge the goods, to the preclusion of the rights of the real owner. *Levi* v. *Booth,* 58 Md. 305. It might be argued that the dealer has more than mere possession and that he has the indicia of title. This however is not sufficient. That indicia of

title or property which the dealer has *must be conferred on him by some words or act of the true owner.* In other words the true owner must do something so as to be estopped. *Pickering* v. *Busk,* 15 East. 38; *Smith* v. *Clews,* 105 N. Y. 283; see also *McNeil* v. *Tenth National,* supra; *Commercial Bank* v. *Kortright,* 22 Wend. 348; *Wood's Appeal,* 92 Pa. St. 379; *Calais Steamboat Co.* v. *Van Pelt,* 2 Black (67 U. S.) 372; *Nixon* v. *Brown,* 57 N. H. 34.

SALES—STOPPAGE IN TRANSITU.—Claimant sold goods to X, who later became insolvent. Under the terms of the sale, the vendor sent the goods to a bleachery for and on account of the vendee. The bleachery received the goods as the goods of the vendee, so entered them upon the books, bleached and finished the goods according to the directions of the vendee, held them subject to vendee's orders and shipped out some of the goods upon the vendee's order. The goods were bleached at the cost of vendee. *Held,* this was not such a delivery to vendee as to prevent the right to stop in transitu. *In Re Poe Mfg. Co.* (S. C. 1913), 80 S. E. 194.

This case makes an extreme construction in favor of the right of stoppage in transitu. Relying among among other cases on *Harris* v. *Pratt,* 17 N. Y. 249 and *Callahan* v. *Babcock,* 21 O. St. 281, the court said "It is not material whether the person in whose possession the goods are when the seller interposes his claim, be a carrier, a warehouseman, a wharfinger, packet or other depository or an agent for forwarding purposes, nor by which of the parties to the sale he was employed." This no doubt is true, when it is applied to a *forwarding* agent—and upon examination of the authorities upon which the principal case is founded it will be found that the place of stoppage was a steamboat, depot or warehouse connected with and ordinarily employed in the *forwarding* business—*Atkins* v. *Colby,* 20 N. H. 154; *Callahan* v. *Babcock,* 21 O. St. 281; *Mohr* v. *Boston Ry. Co.,* 106 Mass. 67. The true test to be applied is "Has the person who has custody of the goods, got possession as agent *to forward* from the vendor to the buyer, or as agent *to hold* for the buyer?" BENJAMIN, SALES, § 846; *Leeds* v. *Wright,* 3 B. & P. 320; *Scott* v. *Pettit,* 3 B. & P. 469; *Hoover* v. *Tibbits,* 13 Wis. 79. Applying this test to the principal case, the decision is clearly erroneous.

WILLS—CONSTRUCTION—DISTRIBUTION PER STIRPES OR PER CAPITA.—One item of the will in question was as follows: "I will and devise that at the death of my wife all of my said real estate shall be divided, share and share alike, between the nearest blood relation I may have living at that time and the nearest blood relation of my wife at the time of her death." This action is between the testator's sister and brothers, appellants, who contend that the distribution under the will should be per capita, and the widow's father, appellee, who contends that the distribution should be per stirpes. *Held,* that the distribution should be per stirpes. *Laisure* v. *Richards* (Ind. App. 1913), 103 N. E. 679.

The appellants in this case, attaching importance to the use of the words "share and share alike," insisted that the testator intended a per capita distribution among one class only, viz.,—"nearest relation both by blood and by